

REMARKS/ARGUMENTS

In the Office Action, the Examiner rejects Claims 1-6, 8-16, 18-26, 28-36, 38-68, 70, 73-75, 77-84, and 88 under 35 U.S.C. §103(a) as being unpatentable over European Patent No. EP0973112 to Goodwin III ("Goodwin") in view of U.S. Patent No. 6,993,494 to Boushy et al ("Boushy"). In addition, Claims 7, 17, 27, 37, 47, 55, 69, and 85 are rejected under 35 U.S.C. §103(a) as being unpatentable over Goodwin in view of U.S. Patent No. 6,553,346 to Walker et al. Finally, the Examiner rejects Claims 71, 72, 76, 85, 86, and 87 under 35 U.S.C. §103(a) as being unpatentable over Goodwin in view of Official Notice.

As explained more fully below, independent Claims 1, 11, 21, 31, 41, 49, 59, and 74 of the present application have been amended to more clearly patentably distinguish the cited references. Dependent Claims 15, 18, 25, 28, and 83 have been canceled, while several dependent claims have been amended for clarification. In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the claims.

In the previous response, independent Claims 1, 11, 21, 41, 49, 59, and 74 were amended to recite that modifying at least one entry in the results to reflect a more competitive position when compared to another entry in the results is based at least partially on availability of the item. The Examiner acknowledges that Goodwin does not disclose this particular recitation but, instead, relies on newly cited Boushy. Boushy discloses managing value from a resource (e.g., hotel rooms) by determining recommended bid prices. Boushy also discloses that the recommended bid prices may be based on conventional means, including availability, as well as competitive market conditions, such as lowering a price of a hotel room if competing hotels are offering lower prices.

In contrast to the cited references, independent Claims 1, 31, 41, 49, and 59 of the present application have been amended to recite that the items for which price information is provided sold at a plurality of different predefined price levels that each have a respective availability and that modifying at least one entry in the results to reflect a more competitive price or position when compared to another entry in the results comprises increasing availability of the entry at a predefined price level at the more competitive price. For example, an airline may choose to increase the availability of a fare class that is generally only available for advance purchases to

produce a more competitive price even though the advance purchase deadline has passed. The Examiner acknowledges that Goodwin does not disclosing modifying prices based at least partially on availability. Moreover, Boushy simply discloses that availability may be used to determine an initial bid price and that the bid price may be subsequently modified to a more competitive price. In particular, Boushy discloses that initial bid price may be based on “conventional means” and “represents the unadjusted priced that would normally be charged for the resource” (col. 7, lines 64-66). Thus, Boushy only uses availability to determine an initial bid price but does not otherwise disclose that the availability is modified to provide a more competitive price. Rather, Boushy discloses that the bid price may be modified to take into account the indirect value of the customer (i.e., additional revenue derived from customer’s purchase, consumption, or use of a resource) or based on competitive pressures. “For example, if competing hotels are offering rooms at lower prices, the bid price for a room may be adjusted downward in order to remain competitive” (col. 8, lines 37-40). Thus, Boushy clearly does not teach or suggest that the availability of the resource at one of a plurality of predefined price levels is modified in order to produce a more competitive price, which is unlike Claims 1, 11, 31, 41, 49, and 59.

Furthermore, independent Claims 21 and 74 have been amended to recite modifying at least one entry in the database results to reflect a more competitive price or position when compared to another entry in the database results based at least partially on combining a price and a non-monetary incentive to produce the more competitive price or position, modifying a price based on a level of service provided to produce the more competitive price or position, or marking up the at least one entry while maintaining a competitive price position. In contrast, Goodwin discloses that competitive pricing software obtains price data for an item from a data file, reads the price from a PLU data file, and adjusts the PLU price if the current price is greater than the competitor prices. However, Goodwin does not teach or suggest that the PLU price is adjusted based on combining a price and a non-monetary incentive to produce the more competitive price, modifying a price based on a level of service provided, or marking up the at least one entry while maintaining a competitive price, as Goodwin only discloses modifying the PLU price based on competitors’ prices. As discussed above, Boushy discloses adjusting an

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initial bid price based on the indirect value of the customer or competitive pressures. Boushy also discloses that the adjusted bid price may be increased if the adjusted bid price is reduced below a minimum room price. Thus, Boushy does not disclose that the entry in the database results is marked up but, rather, that the bid price is reduced and then increased if initially reduced below a predefined value. Therefore, Boushy also fails to teach or suggest independent Claims 21 and 74.

As such, Applicants submit that independent Claims 1, 11, 21, 31, 41, 49, 59, and 74 are distinguishable from the cited references, taken alone or in combination. Because each of the dependent claims includes each of the limitations of a respective independent claim, Applicants also submit that the dependent claims are allowable for at least those reasons discussed above.

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CONCLUSION

In view of the amendments and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted, .



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